



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,091	11/28/2001	Edward O. Clapper	42390P12743	4407

21906 7590 03/17/2004

TROP PRUNER & HU, PC
8554 KATY FREEWAY
SUITE 100
HOUSTON, TX 77024

EXAMINER

RAMOS FELICIANO, ELISEO

ART UNIT	PAPER NUMBER
----------	--------------

2681

5

DATE MAILED: 03/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/997,091

Applicant(s)

CLAPPER, EDWARD O.

Examiner

Eliseo Ramos-Feliciano

Art Unit

2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-52, 54 and 56 is/are rejected.
- 7) ☒ Claim(s) 53, 55 and 57 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

1. The references listed in the Information Disclosure Statement filed on May 5, 2003 have been considered by the examiner (see attached PTO-1449 form).

Abstract

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it contains less than 50 words.

Correction is required. See MPEP § 608.01(b).

Claim Objections

4. **Claims 53, 55, and 57** are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 2681

6. **Claim 18** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 recites the limitations "the means for detecting and analyzing a change in the occupancy data", "the means for changing", and recalls "the cellular communication system of claim 15" (emphasis added) in lines 1, 2, and 4. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 1-6, 8-16, 21-36** are rejected under 35 U.S.C. 102(b) as being anticipated by Sumner (US Patent Number 5,182,555).

Regarding **claim 1**, Sumner discloses an apparatus that includes:

a cellular map of cellular communication cells (1332 to 1534) in a geographic area (see Figure 4, column 6, lines 59-68);

a road map of vehicular roads in substantially the same geographic area (see Figure 4, column 13, lines 19-21); and

a traffic flow analyzer (see 103 - Figure 1) coupled to the cellular map and the road map to determine vehicular traffic in at least part of the geographic area (see column 3, lines 46-63, column 6, lines 29-68, and Figure 5).

Art Unit: 2681

Regarding **claims 2-6 and 8-9**, Sumner discloses everything claimed as applied above (see *claim 1*). In addition, Sumner teaches that:

at least one part of the geographic area includes at least one cell (for example cell 1432) of the cellular communication cells, as depicted in Figures 4-5; see column 6, lines 49-68.

At least one part of the geographic area is expressed in geographic terms including a reference to at least one of the vehicular roads (for example MAIN STREET), as disclosed at column 14, line 60-68, column 15, lines 23-27, and Figure 5.

Sumner's apparatus provides real-time traffic congestion information; see the abstract, and column 3, lines 8-20. The invention monitors and processes occupancy data from vehicle tracking devices located in particular cells. Based in change over time of cell occupancy and direction of travel, *inter alia*, traffic congestion in a particular cell can be determined. Therefore, means for determining a delta (change) over time in occupancy data for at least one cell of the cellular communication cells is included in Sumner. See column 21-55, and Figure 3.

Sumner's apparatus further includes a communication link (path) for transmitting information concerning the vehicular traffic; see column 5, line 64 to column 6, line 11, and Figure 1 (particularly elements 114 and 115).

The communication link (path) can be a link to cellular devices as claimed; see column 6, line 10.

Sumner's apparatus also includes a processor (131) coupled to the traffic flow analyzer; see Figure 1.

Art Unit: 2681

Sumner's apparatus includes a map overlay mechanism (for example see element 132 in Figure 1) for correlating the cellular map and the road map, as shown in Figure 4, and disclosed at column 8, lines 16-19, and column 13, lines 19-21.

Regarding **claim 10**, Sumner discloses a cellular communication device (100) for communicating with a cellular system that includes:

a receiver to receive communications from the cellular system, and a transmitter to transmit communications to the cellular system; see column 5, line 21 to column 6, line 11

map storage to store a map (see column 14, line 45; "database" in Figure 2; 160, 161 and 165 in Figure 5)

an analyzer (111 or 131) coupled to the receiver to receive cell occupancy data and to the storage to access the map to determine traffic in at least one cell according to the occupancy data (Figure 4).

Regarding **claims 11-16**, Sumner discloses everything claimed as applied above (see *claim 10*). In addition, Sumner's device includes means for requesting the cell occupancy data and storage to store the cell occupancy data. See Figure 2, column 5, line 14 to column 6, line 68, and Figure 5.

As depicted in Figures 2-3, the occupancy data can be divided in several sections (namely first and second occupancy data) such as freeway, vehicles, history, etc. The traffic analyzer determines traffic congestion based on a delta (change) of the occupancy data. The data storage (database) is "updated" in real-time. See abstract, Figure 5, and column 3, lines 46-63.

Art Unit: 2681

Sumner's device includes a map overlay mechanism (for example see element 132 in Figure 1) for correlating the cellular map and the road map, as shown in Figure 4, and disclosed at column 8, lines 16-19, and column 13, lines 19-21.

Sumner's device further includes a display as claimed (shown in Figure 4) see column 13, line 20, and column 15, lines 23-27.

The display includes zoom control, as the user may view different section of a geographic area or cells; see column 7, lines 19-68, column 13, lines 44-53.

Sumner's device includes means for updating as claimed; see Figures 2 and 5.

Regarding **claim 21**, Sumner discloses a method that includes determining a delta (change) in occupancy data of at least one cell of a cellular communication system, and determining spatial movement (for example vehicular traffic congestion information) of cellular devices according to the delta (change) in occupancy data; see column 3, lines 46-63, column 5, line 21 to column 6, line 68, column 8, lines 13-28, and Figures 3-5. The explanation for claims 10-16 is also incorporated herein by reference.

Regarding **claims 22-36**, Sumner discloses everything claimed as applied above (see *claim 21*). In addition, the spatial movement of the cellular devices or vehicular traffic is substantially planar. The vehicles can be aircrafts; see column 1, lines 25-45. Therefore, spatial movement can be three-dimensional.

As depicted in Figures 2-3, the occupancy data can be divided in several sections (namely subsets) such as freeway, vehicles, history, etc. The traffic analyzer determines traffic congestion based on a delta (change) of the occupancy data. The selection can be by experimentation

Art Unit: 2681

(random) or algorithmic. See abstract, Figure 5, column 3, lines 46-63, and column 10, line 64 to column 13, line 4.

The vehicular traffic congestion information is published or depicted graphically in a display as claimed (shown in Figure 4) see column 13, line 20, and column 15, lines 23-27.

The information is transmitted to cellular devices as claimed; see column 5, line 64 to column 6, line 11, and Figure 1 (particularly elements 114 and 115).
see column 6, line 10.

The information can be considered "travel routing advice".

The information can be limited to those "subscribers" in possession of the ICI system 100. Also can be sent to a non cellular entity, e.g. police, bus, taxi, etc.; see column 5, lines 21-63.

The vehicular traffic can be depicted in for of "vectors". The vectors can be in the form of colors; see column 8, lines 13-28, column 9, lines 65-68.

As exhibited in Figure 4, a linear boundary map describes where vehicular roads connect cells.

In response to the delta (change) in occupancy data and spatial movement, the functionality of the system is adjusted; see Figure 5, and column 6.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Sumner (US Patent Number 5,182,555) in view of Ran (US Patent Number 6,317,686).

Regarding **claim 7**, Sumner discloses everything claimed as applied above (see claim 5). However, Sumner fails to particularly disclose that the vehicular traffic information can be transmitted into the Internet, as defined by applicant.

Ran discloses an apparatus including means for transmitting and providing (elements 4 and 7 - Figure 1) traffic information, including maps, to any of: Internet website, cell phone, pager, PDA, hand-held computer, in-vehicle device, and cable TV; see column 1, lines 18-58, and Figures 1 and 7A-B. The advantage of traffic information via Internet is that many more users can benefit from the provided traffic information.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to enable Sumner's apparatus with means for transmitting the vehicular traffic information into the Internet, so that many more users can benefit from the provided traffic information. Another advantages are that in this way many more users may plan and use alternate travel routes, and that traffic congestion can be alleviated.

11. **Claims 17, 19-20, 37-52, 54, and 56** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sumner (US Patent Number 5,182,555).

As to **claims 17 and 19-20**, they are obvious system claims of device *claims 10-16*. Therefore, they are rejected for the same reasons shown above. For clarification, database 165 stores cell map, cell occupancy data, and road map data; therefore it reads as the claimed first, second, and third storage.

Art Unit: 2681

Regarding **claim 37-38**, Sumner discloses everything claimed as applied above (see *claim 36*). However, Sumner fails to particularly disclose to increase cell capacity based on the delta and spatial movement, nor based on future changes as claimed.

The examiner contends that the delta (change) and spatial movement of devices to a particular cell, inherently burdens the cell capacity to the point of possible overloading. If such tendency can be predicted, overloading can be minimized or at least alleviated. The examiner takes official notice of that a conventional way of alleviating or preventing overloading is increasing cell capacity as claimed.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to increase Sumner's cell capacity based on the delta and spatial movement and/or future changes for the advantage of preventing overloading.

As to **claims 39-51**, they are obvious method claims of *claims 10-38*. Therefore, they are rejected for the same reasons shown above.

As to **claims 52, 54 and 56**, they are obvious article of manufacture claims of *claims 21, 39, and 49*. Therefore, they are rejected for the same reasons shown above.

Citation of Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hollenberg (US Patent Number 6,091,956) discloses situation information system; see Figure 6.

Sone (US Patent Number 5,313,200) discloses a road traffic congestion display system; see Figure 3.

Conclusion

Art Unit: 2681

12. Any response to this Office action should be mailed to:
Commissioner of Patents and Trademarks
Washington, D.C. 20231
or faxed to: (703) 872-9306
for formal communications intended for entry, informal communications or draft
communications; in the case of informal or draft communications, please label
"PROPOSED" or "DRAFT".

Hand-delivered responses should be brought to
Crystal Park II
2121 Crystal Drive
Arlington, VA
Sixth Floor (Receptionist).

13. Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Eliseo Ramos-Feliciano whose telephone number is (703)
305-0078. The examiner can normally be reached on Monday through Thursday (first week of
bi-week) and Monday through Friday (second week of bi-week) from 8:00 a.m. to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Erika A. Gary, can be reached on (703) 308-0123.

Any inquiry of a general nature or relating to the status of this application or proceeding
should be directed to the Group receptionist whose telephone number is (703) 305-4700, or call
Group customer service at (703) 306-0377.

ERF/erf
March 13, 2004.

ELISEO RAMOS-FELICIANO
PATENT EXAMINER

Erika Gary
ERIKA GARY
PATENT EXAMINER